THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20900 OF 2005

DATED:23.9.2005

Between:

K. Kousalya

…Petitioner

And

Deputy Collector-cum-Mandal Revenue Officer,

Qutbullapur Mandal, Ranga Reddy District

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20900 OF 2005

ORDER:

The petitioner assails the show cause notice issued by respondent calling upon the petitioner to show cause as to why she should not be summarily evicted from the land in S.No.52/D admeasuring Ac.2.20 gts. of Bachupally Village, Qutbullapur Mandal, Ranga Reddy District.

It is the case of the petitioner that the land in S.No.52/D is given to her under laoni patta in accordance with Laoni Rules, 1950 and that the land itself is described in the impugned show cause notice as laoni patta. No jurisdiction vests in the respondent to initiate action under the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 (for short, the Act). Reliance is also placed on

Division Bench judgment of this Court, to which I was a Member, in **Mandal Revenue Officer, Qutubullapur Mandal v. K.Seetharam Reddy** (W.A.No.1514 of 2001, dt.21.11.2001).

It is now axiomatic that ordinarily a Writ Petition is not maintainable against show cause notice. It is also now well settled that even if show cause notice is issued by an authority allegedly without any jurisdiction, even in such cases, Writ Petition cannot be entertained. In **Special Director v. Mohd. Ghulam Ghouse** the Supreme Court held:

> This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show-cause notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless the High Court is satisfied that the show-cause notice was totally non est in the eye of the law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show-cause notice and take all stands highlighted in the writ petition. Whether the show-cause notice was founded on any legal premises, is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the court. Further, when the court passes an interim order it should be careful to see that the statutory functionaries specially and specifically constituted for the purpose are not denuded of powers and authority to initially decide the matter and ensure that ultimate relief which may or may not be finally granted in the writ petition is not accorded to the writ petitioner even at the threshold by the interim protection granted.

It is not denied before this Court that even if a patta is granted under Special Laoni Rules, Part-II of Laoni Rules, 1950, though there is no condition of inalienability attached to the land demised under the patta, but still, as declared by this Court in the judgment referred to hereinabove, prior permission of the District Collector for alienation is required. This Court, however, hastens to add that these matters require evidence like laoni patta, other proceedings relating to it, which can be produced by the petitioner at the time of enquiry before the Mandal Revenue Officer, before appropriate order is passed under Section 4 of the Act. Liberty is given to the petitioner to produce necessary material along with explanation to the show cause notice whereupon the respondent shall consider the same and also law laid down by this Court in the judgment referred to hereinabove and pass appropriate orders. This exercise may be completed within a period of eight weeks from the date of receipt of this order.

The Writ Petition, with the above observations is accordingly disposed of. No costs.

(V.V.S.RAO, J)

23.9.2005

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